IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 5666 of 1997

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GUJARAT WATER RESOURCES DEVEL.CORPN LTD. - Petitioner(s)

Versus

LAXMANBHAI NATHUBHAI - Respondent(s)

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Appearance :

NOTICE SERVED BY DS for Petitioner No(s).: 1.
M/S TRIVEDI & GUPTA for Petitioner No(s).: 1.

MR RV DESAI for Respondent No(s).: 1.
MR PARESH UPADHYAY for Respondent No(s).: 1.

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CORAM :HON'BLE MR JUSTICE KS JHAVERI

Date : 06/07/2005

ORAL JUDGMENT

1.0 The petitioner has challenged the order dated

12.02.1997 passed by the Labour Court, Godhra in Reference (LCG) No.558 of 1993, whereby the said reference was allowed.

2.0 The brief facts of the case are that the respondent herein was engaged as a daily wager Chowkidar by the petitioner Corporation w.e.f. 12.04.1988. He was relieved from the duty w.e.f. 17.06.1993. Feeling aggrieved by the said action, the respondent raised a dispute, which ultimately, came to be referred to the Labour Court, Godhra. The Labour Court, by impugned order, allowed the said reference. Hence, this petition.

3.0 While admitting the matter on 09.10.1998, this Court had granted interim relief qua back wages, on condition that the petitioner reinstates the respondent on his original post latest by 30.10.1998. Pursuant to the above order, the respondent has been reinstated in service. Therefore, the question which is now required to be considered by this Court is with regard to grant of back wages.

4.0 I have heard learned counsel for the parties and perused the documents placed on record. In the impugned order, the Labour Court has not given any cogent reasons as to on what basis it has awarded 25 per cent back wages to the respondent. Considering the charges levelled against the respondent and his past conduct, the Labour Court ought not to have awarded any back wages to the respondent. Moreover, in view of the principle laid down by the Apex Court that a workman shall be entitled for back wages only if he has worked for the interim period, the respondent herein cannot be said to be entitled for back wages. In

that view of the matter, the impugned order of the Labour Court qua grant of back wages is required to be quashed and set aside.

5.0 For the foregoing reasons, this petition is partly allowed. The impugned award of the Labour Court, Godhra, qua directing the petitioner Corporation to reinstate the respondent workman with continuity in service is confirmed, and the direction qua granting 25 per cent back wages is quashed and set aside. The petitioner Corporation is directed to give the respondent workman all benefits, including salary, from the date of the publication of the award till his reinstatement in service. If the said benefits have not been paid so far, they shall be paid within a period of three months from the receipt of writ of this order. Rule is made absolute to the aforesaid extent with no order as to costs.

(K. S. JHAVERI, J.)

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